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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision:13.09.2023**

+ **W.P.(C) 12044/2023**

FADA TRADING PRIVATE LIMITED Petitioner
Through: Mr. Ruchesh Sinha, Mr. Keshav Tril
and Ms. Nivedita Jha, Advocates.

versus

INCOME TAX WARD 9(1), DELHI & ORS. Respondents
Through: Mr. Kunal Sharma, Jr. Standing
Counsel with Ms. Zehra Khan,
Mr.Shubhendu Bhattacharya and Ms.
Mohini, Advocates.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

C.M. No. 47214/2023

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

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2. Issue Notice.

2.1. Mr. Kunal Sharma, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the directions that we propose to pass, Mr. Sharma says that the counter-affidavit need not be filed and he will argue the matter based on the record available presently with the court.



4. With the consent of the counsels for the parties, the writ petition is taken up for final hearing and disposal at this stage itself.

5. The principal grievance of the petitioner is that Rs. 40,00,000/- deposited by it (albeit, in two tranches) towards tax was inadvertently captured against under Assessment Year (AY) 2019-20 instead of AY 2020-21.

5.1 In other words, the petitioner concedes that a mistake was made in filling up the two *challans* which accompanied the deposit of the self-assessment tax.

5.2 The two tranches in which the self-assessment tax was deposited were Rs.10,00,000/- and Rs. 30,00,000/-.

6. It is also the petitioner's case that there was no requirement to make a deposit towards the self-assessment tax in AY 2019-20, since it had suffered losses in the relevant period.

7. It appears, at the request of the petitioner, the Assessing Officer (AO) corrected the error in the records of the respondents/revenue and had the deposit made toward self-assessment reflected against AY 2020-21.

8. This step having been taken, the petitioner moved Principal Chief Commissioner of Income Tax for condoning the delay in filing the revised return, so that it could claim refund due to it.

8.1 It is the lack of movement qua this application which has propelled the petitioner to take recourse to the instant writ action.

9. Mr. Ruchesh Sinha, who appears on behalf of the petitioner, says that the respondents/revenue could deal with the petitioner's requests in one of three ways:

(i) First, refund Rs. 40,00,000/- to the petitioner.



(ii) Secondly, condone the delay and permit the petitioner to file a revised return.

(iii) Thirdly, allow the petitioner to adjust Rs. 40,00,000/- deposited by the petitioner for against another AY.

10. Mr Sharma says that the three alternatives referred to above could be examined by the CBDT and appropriate orders would thereafter be passed.

11. Thus, having regard to what is put forth by the learned counsels for the parties before us, the writ petition is disposed of with a direction to the CBDT to examine the three alternatives placed before us by the petitioner.

11.1 The CBDT will, thereafter, take a decision as to what would be the best way forward. The CBDT is requested to pass a reasoned order and have the same communicated to the petitioner.

11.2 Needless to add, before any decision is taken, the CBDT will hear the authorized representative of the petitioner, in that behalf.

12. Since the issue has been hanging fire for nearly one year, the CBDT is requested to take a decision in this matter as expeditiously as possible though not later than ten (10) weeks from the date of receipt of a copy of the order passed today.

13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

SEPTEMBER 13, 2023/ MS

Click here to check corrigendum, if any